

MINUTES

BOARD OF ADJUSTMENT HEARING

August 13, 2008

ATTENDANCE

Board Members

ATTENDED

1. Bill Arendell, Chairman
2. Carla Bowen
3. Hartley Turley

ABSENT

Staff Attendance

1. Linda Elliott, Planner I
2. Doris Hernandez, Secretary

Meeting held at the Navajo County Board of Supervisors Chambers, Holbrook, Arizona – Time: 10:03.

Bill Arendell called the meeting of the Navajo County Board of Adjustment to order and explained the meeting procedures to the public. **Mr. Arendell** then led the Pledge of Allegiance.

Item #1 – Variance: Discussion and possible Board action on a request by John Mintz for a variance from the Navajo County required 5-foot side yard setback to a 3.6-foot setback, to allow for construction of a proposed 6-foot x 33.6-foot deck on the east side of the lot. APN: 411-73-040, Township 8 North, Range 23 East, Section 10, located at 5219 S. Blue Ridge Loop, Pinetop Lakes Mobile Homes Unit 3, in the Pinetop area. Parcel Size: 6,480 sq. ft. **GENERAL CHARACTER OF NEIGHBORHOOD:** This property and all properties surrounding it are all zoned R-3. The area has high density manufactured homes on small lots that are heavily treed. **ZONING DISTRICTS:** Current: R-3 Uses: Residential Multiple-family dwellings, high-density housing, schools, parks, churches, private clubs, accessory buildings, manufactured home subdivisions and manufactured home parks. **ZONING ORDINANCE:** Article(s): 28 – Board of Adjustment Section(s): 2802- Power and Duties **STATED REASON FOR REQUEST:** To allow for construction of a proposed 6-foot x 33.5-foot uncovered deck within 3.6-foot of the property line. **CHANGING CONDITIONS:** Allows encroachment into the fire defensible area between dwellings. This would be a variance from the required 5-foot side yard setback. **FINDINGS OF FACT:** This item has been properly noticed and posted in compliance with Arizona Revised Statutes and Article 28. **ENGINEERING COMMENTS:** The Engineering Division has inspected the property and reviewed the requested variance. The Division has no concerns and has no objections to this request. **FLOOD CONTROL COMMENTS:** Flood control has reviewed 411-73-040. This parcel is not in a FEMA floodplain per FEMA map 2500C dated 8/16/1988. Flood Control has no objections to this Variance. **PLANNING & ZONING DEPARTMENT:** The staff has reviewed the site plan and has concerns. The Pinetop Lakes Association has voiced their approval of the Variance. The building department issued a stop work notice for building without a permit and construction not to County code. The west side of the property appears to be more suitable for expansion. Granting this Variance as requested would allow for construction to encroach into the limited, previously cleared fire defensible area between dwellings. **PUBLIC WORKS DEPARTMENT RECOMMENDATION:** Should the Board grant this Variance request, staff would recommend the following conditions be applied. Acquire required County building permits. Submit construction plans conforming to County codes. If the current unpermitted structure cannot be made to meet code requirements, the structure must be removed. If the requested Variance is denied, the existing structure must be removed within 60 days. The variance shall automatically expire if construction, in accordance with the plans for which the variance is granted, has not been completed within one year from the date on which the variance is granted. **Linda Elliott** gave a description about the property and displayed the plans. She added that there are 2 opposition letters and she just received a letter with 4 signatures on it that were also in opposition. **Bill Arendell** asked if the board had any questions and there were none. He then asked if anyone was there to speak on behalf of this project. **John Mintz**, owner

of the property, spoke to the board and stated that in the summer of 2007 he realized the trailer that he and his mother owned was falling into disarray. He stated that the porch that he is asking the variance for was in such bad shape that it was almost ready to fall down. His father had placed boards under it so that it would stay. Last year he decided that he would remove these and put new ones in and replace it and also there was a closed in porch in the back that he took down and was to replace it with a covered porch. He said that he talked to Mike Sita about the plans and it was at that time that Mike told him that he needed to get a permit from the Home Owners Association so he then went to the HOA and met with Gwenn Devereaux and she told him that she needed drawings so he submitted them and then he asked her if there was any other permits that he needed and she said "no as long as the HOA is okay that the county codes are lower variances than theirs and the fact that he was just replacing it that the county was not going to be interested in this". He then waited until he received the HOA permit before starting anything. When he started one of the things that came up is where they were going to put the walkway so that his mother could get to the back and the first thing they thought of is about the left hand side because he does have a lot of room but there were several issues with that, one of which is the power pole, which is right in the middle of where they would walk and that would be unsafe and he thought that it could be moved but were told that the county or SRP would not move it and that he would have to move it but that would be pretty expensive. The other issue is that the water heater and all the power for the trailer are right across from the power pole. Right in the corner is the water heater and that would have to be moved. He also wanted to put a spa in. If the spa was going to be somewhere else then they would have to run another line to the circuit breaker and they didn't want to have to do that because that would be a lot of work and a lot of expenses as to where on the other side they could just basically come back, they would have to go around the tree, which didn't look like a big deal to them, but when he talked to Gwenn she said that it was pretty close to the property line. So they decided not to do it that way unless the HOA told him that it was okay. So once Gwenn gave him a variance for their setback he started construction. He stated that even when they put in the piers that it was obvious to everyone around as to what they were going to do. Going into winter last year they had the piers in and then they were ready to go and even around that time his son-in-law, who is the one working with him, talked to Mr. Sita about what they were going to do and showed him drawings. **Mr. Mintz** also stated that he talked to Gwenn and he asked her if she was going to talk to Mike and she told him that before she gave the variance permit that she would check with the neighbors and he went with her word that this was what she was going to do. **Mr. Arendell** thanked him for his comments and then asked commissioners if there were any questions. **Carla Bowen** asked why he didn't cut the tree down when he was doing the construction because she could see three right by the mobile home and also a huge tree that was encased. **Mr. Mintz** answered that it was a beautiful ponderosa pine. **Ms. Bowen** added that it was too close and what you would do when you put a deck is to make it a part of the dwelling. She stated that when you encase a tree it becomes a part of the dwelling. **Mr. Mintz** responded that they did not encase it. **Ms. Bowen** said that looking at the picture and the deck is built around the tree. **Mr. Mintz** said that if anything he did not want to cut down the tree. **Bill Arendell** then asked that if he checked with the county about a building permit or just went on the word of his HOA? **Mr. Mintz** responded that as he remembers that he called the county and asked for the setbacks and was told "we only worry about the front and back setbacks where you are relative to the road and where you are relative to the back". So he then said okay and that he only got that verbally. He then said it was from the side that he was getting a variance for what he understood was from the HOA and Gwenn said that he didn't have to worry about it and they had a bigger setback anyway. **Ms. Bowen** then said that Bill's question was did you not apply for a building permit through the county? **Mr. Mintz** answered that he didn't until later when someone turned him in to the county and he got the stop order and he stopped immediately and he hasn't worked on it since and then he started working with the county because he was trying to do everything he was supposed to do upfront and for him the bad thing was that he was misled by Gwenn and he wouldn't have done it that way. He said that he is in a tough situation and isn't trying to hurt anyone or trying to create any problems, he is just trying to enhance the trailer that was in disarray and trying to make the property values go up. He also stated that he did not know that there was an issue with the Fire Department, he never received any information on that, if his mother got anything she did not give it to him but that he never saw anything or heard about it. He also said that there is no way that they can get a truck back in there. There is only enough room between the trailers to get a hose back in there and the way he plans on building the new deck that there is still plenty of room to get a hose in there. He said that he has other options he would like to propose if they do not like what he was going to do. **Ms. Bowen** and **Mr. Arendell** both said that they could only deal with what they had at this time. **Ms. Bowen** asked if anyone ever told him that he did not

have to get a building permit for building in the county. **Mr. Mintz** answered that Gwenn had. She had told him because he was replacing existing structures. **Mr. Arendell** asked if anyone would like to make any comments against the variance. **Mike Sita**, a neighbor, stated that there were many objections. He stated that Gwenn has been fired so they cannot speak to her. He said that the requirement is to get permission from the two adjoining lots to the property for the variance both of which himself and Mr. Geerhart have signed against the variance. He stated that everyone would come by his house and ask what was going on and that they felt encroached upon. He also said that a neighbor put in a new mobile home and that he had to change things by 3 inches and another person also had to for 15 inches to park a trailer temporarily while he was bringing in his mobile home and all that he was saying is that it became a big thing and that he did not want to get involved. He then said that Mr. Mintz went over and told him to write a letter about this so he wrote a letter that he submitted to Ron Gates explaining that he was very concerned. He said that he had to cut a tree down in his yard for fire safety. **Mr. Arendell** asked if the board members had any questions. **Ms. Bowen** answered that they have enough at that time. She stated that she is very familiar with the area and had checked it out. **Mr. Arendell** stated that he did not support the variance. He stated that there were big issues involved. **Ms. Bowen** added that there were extreme safety issues involved and that mobile homes are the most flammable and with the trees as close as they are and incorporating a tree into a structure and she had been at the area and there is room to get a truck in there and that from a safety standpoint the neighbors have to be protected. **Ms. Bowen** made a motion that the variance be denied. **Hartley Turley** seconded the motion. The vote was unanimous to deny the variance. Denied by Resolution No. 08:06B.

Item #2 – Variance: Discussion and possible Board action on a request by Robert M. & Sharon A. Nelson for a variance from the Navajo County required 10-foot side yard setback to a 6-foot setback to allow for construction of a proposed 15-foot x 28-foot garage on the east side of the lot. APN: 411-77-170, Township 8 North, Range 23E, Section 2 & 11, located at 5808 Mule Deer Way, Pinetop Lakes Mountain Homes Unit 2 in the Pinetop area. Parcel Size: **7,920 sq. ft.** **GENERAL CHARACTER OF NEIGHBORHOOD:** This property and all properties surrounding it are all zoned R1-10. The homes in the surrounding neighborhood are site built and heavily treed. The area is located within the Pinetop Lakes Mtn. Homes Unit 2 subdivision. **ZONING DISTRICTS:** Current: R1-10 Uses: Residential Single-family dwellings, schools, parks, churches, public utility buildings, accessory buildings, playgrounds, public riding stables and other community buildings. **ZONING ORDINANCE:** Article(s): 28 – Board of Adjustment Section(s): 2802- Power and Duties **STATED REASON FOR REQUEST:** To allow for construction of a 15-foot x 28-foot garage within 6-foot of the property line. **CHANGING CONDITIONS:** Allows encroachment into the required 10-foot side yard setback. **FINDINGS OF FACT:** This item has been properly noticed and posted in compliance with Arizona Revised Statutes and Article 28. **ENGINEERING COMMENTS:** The Engineering Division has reviewed the request and the site. The only concern that we have is that this action will require the removal of three mature Pine trees in the area that the garage is proposed to go. Other than that, if the garage is constructed, it must meet all applicable codes. **FLOOD CONTROL COMMENTS:** Flood control has reviewed 411-77-170. This parcel is not in a FEMA floodplain per FEMA map 2500C dated 8/16/1988. Flood Control has no objections to this Variance. **PLANNING & ZONING DEPARTMENT:** The Planning staff has reviewed the site and due to the fact that the lot is undersized at 7,920 square feet, 2,000 square feet less than the minimum 10,000 square foot lot area, the staff feels the variance is justified. **PUBLIC WORKS DEPARTMENT RECOMMENDATION:** Should the Board grant this Variance request, staff would recommend the following conditions be applied. The variance shall automatically expire if construction, in accordance with the plans for which the variance is granted, has not been completed within one year from the date on which the variance is granted. **Linda Elliott** gave a brief description on this parcel and displayed the lot site plan. She stated that they are still 16 ft. from the neighbors and there are 2 neighbors that approve the variance. **Mr. Arendell** asked if this property was septic or sewer and **Linda** answered it was on sewer. **Carla Bowen** also answered that it was on sewer. She also stated that she had been to the area. **Bill Arendell** asked if anyone would like to speak on behalf of this variance. **Sharon Nelson**, owner of the property, addressed the board. She stated that she retired from teaching in May and would like to substitute teach at Blue Ridge and in order to do that she would like to build a garage for her vehicle and to have a little bit of storage in the winter time. **Ms. Bowen** said that the lot size is pretty typical for that area. **Mr. Arendell** asked if these were manufactured homes and **Ms. Bowen** answered that they were not, they are site built homes. No one came forward against the variance. **Ms. Bowen** made a motion that the

variance be approved as per staff recommendations. Hartley Turley seconded the motion. All were in favor of the variance. Approved by Resolution No. 08:07B.

Item #3 – Possible approval of the minutes for the May 7 meeting. Carla Bowen made a motion to approve the minutes. Hartley Turley seconded the motion. Motion passed unanimously.

Item #4 – Board Members comments and/or directions to staff. The Board Members may use this time to offer additional comments regarding any item on this agenda or any other topic; and the board may direct Development Services Department Staff to study or provide additional information on topics of the Boards' choosing.

With there being no further business to come before the Board of Adjustment, the meeting was adjourned at 10:35. A motion was made to adjourn the meeting by Hartley Turley. Carla Bowen seconded the motion. Motion passed unanimously.

Approved this _____ day of _____, _____.

Chairman, Navajo County
Board of Adjustment

ATTEST:

Secretary, Navajo County
Board of Adjustment